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September 25, 2013

VIA ECF AND FAX

Magistrate Judge Cheryl L. Pollak
United States District Court
Eastern District of New York
225 Cadman Plaza East, Courtroom 13B - South
Brooklyn, New York 11201

Re: Ambrose v. The Mount Sinai Hospital/ Civil Action No.: 11 CV. 2026

Hon. Magistrate Judge Pollak:

I represent the Plaintiff in this action and write in response to Defendants' request for a pre-motion conference to dismiss the complaint. I will oppose Defendants' request given that a motion to dismiss would be futile principally because most of the delays – other than delays caused by Plaintiff's serious medical conditions - were caused by Defendants themselves. Moreover, Defendants cannot point to any prejudice that resulted from the short delays in providing the court with a letter from Mr. Ambrose's physician and Plaintiff complied with all other deadlines set by this court. Finally, the court gave the parties until October 16, 2013 by which to conduct the depositions of Mr. Ambrose, Maxine Shepherd and Ms. Shepherd's former supervisor. We are hopeful that a letter from Plaintiff's physician authorizing Plaintiff to proceed with depositions can be secured by October 4, 2013, that would provide ample opportunity for the parties to complete the depositions by October 16, 2013. Dismissing the complaint for failure to prosecute would be a draconian and unjustified remedy, especially in light of the foregoing.

Leave For a Pre-Motion Conference To Amend the Complaint

I also seek leave for a pre-motion conference to discuss the possibility of amending the complaint to add FMLA interference/retaliation claims on Mr. Ambrose's behalf, or, in the alternative, the possibility of voluntarily withdrawing Plaintiff's lawsuit in order to file a new lawsuit to assert claims for disability and race discrimination/retaliation and FMLA violations.

I request until Monday, **September 30th, 2013**, by which to file arguments and documentary evidence in support of the foregoing proposed relief and in opposition to Defendants' request for relief.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Ian F. Wallace', with a long horizontal flourish extending to the right.

Ian F. Wallace

cc: Rory J. McEvoy/ Julie Sauer (via ECF)